LEGISLATIVE BUSINESS.

THE TRAVANCORE CHILDREN BILL.

MR. N. RAMAKRISHNA PILLAI: Sir, I beg to present the report of the Select Committee on the Travancore Children Bill and I move that the Bill, as reported by the Committee may be taken into consideration.

MR. S. NARAYANA AIYAR: I second it.

The question that Clause 1 do stand part of the Bill was put and carried.

Clause 1 was added to the Bill.

Clause 2.

MR. S. SANKARANARAYANAN TAMPI: I move to delete Clause 2 g and renumber Clause 2 k as Clause 2 j.

In moving this amendment for the acceptance of the House, I have to bring to your notice that Clause 2 g defines caning.

Modern psychologists are agreed that corporal punishment, so far as the children are concerned, would bring about unhappy results rather than happy ones. Here is a Bill which deals with offences committed by children below the age of sixteen. In view of the fact that the statute deals with juvenile offenders and also the theories of modern psychology the punishment of caning to be preserved seems to be unwise. Therefore it is that I move for the deletion of Clause 2 which defines what caning is.

I move that the amendment be accepted by the House.

MR. K. BALAKRISHNA MENON: I support the amendment.

This is an advanced country and our gracious Highness has been pleased to abolish death sentence. Therefore caning the children below 16 years will only hamper their growth-mental as well as physical. This is a barbarous punishment. So, I support the amendment moved by my honourable friend Mr. Sankaranarayanan Tampi, and would request the House to accept it.

MR. J. T. MORAES (*Neyyattinkara* cum *Trivandrum*): I oppose the amendment. I think caning has to be resorted to under certain circumstances. Of course some kind of physical punishment has to be inflicted even on children. So, I think the provision, as made in the Bill, has to be kept on. Even the honourable members who supported the amendment, know as a matter of fact that certain amount of physical punishment is being inflicted in schools and even in houses. It is admitted that it must be done moderately. But it has to be done all the same. In the circumstances I oppose the amendment.

MR. C. K. SANKARA PILLAI (*Tiruvalla*): I support the deletion of this Clause. Firstly, caning in the refined world is not a kind of punishment. Particularly, the intention of this enactment is to reform and reclaim children.

LIBRARY ARCHIVES Kerala Legislative Assembly

To say that in the process of reforming the brutality of inflicting corporal punishment on the children is to interpret the statute in a way not for the benefit of the children. At the same time in the conception of the Act it is for the benefit of the children. But the result is to teach the children who are to be bettered to be punished as offenders under the penal code, where the method of punishment is almost the same. In my view and from my experience as a teacher, a student can be reclaimed and the children can be bettered without recourse to corporal punishment. Therefore, I fully support the amendment that this clause regarding caning should not find a place in the statute because it is not intended to reclaim children.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I know from the honourable member whether there is any provision in the Education Code regarding caning the children?

MR. C. K. SANKARA PILLAI: There is. But I maintain that it is archaic. It is high time it was removed.

MR. A. P. UDAYABHANU: I support the amendment. The amendment has to be read, after reading the suggestion to amend Clause (34) sub-clause (ii) in the Travancore Children Bill. The present amendment has been suggested so that this sub-clause 2 shall be deleted. Sub-clause 2 as it stands means that if the boy is fined and if he does not pay the fine he shall be caned. That means that if he does not bring money he may be caned.

It seems to me to be forcing the individuals to bring money. It is barbarous. Moreover Sir, force degrades the victim as well as the man who uses it.

Considering these, the amendment has to be accepted.

MR. N. RAMAKRISHNA PILLAI: I oppose the amendment. Caning as a punishment is sanctioned by the Travancore Penal Code. Honourable members will see that Section 517 of the Travancore Penal Code allows juvenile offenders to be punished with caning. Section 323 of the Travancore Criminal Procedure Code prescribes of the manner in which whipping is to be carried out. Thus, it is not a new punishment. It is one which is sanctioned by the law now in force. Even if we delete this clause, juvenile offenders will be punishable with caning under the general law.

MR. A. P. UDAYABHANU: Is there any precedent for taking away the corporal punishment?

MR. N. RAMAKRISHNA PILLAI: There are people who believe that corporal punishment is not right. But at the same time there are also people who believe that unless such punishments are inflicted, there is no way of improving young delinquents. Therefore, it is considered that the infliction of such punishment is necessary as a last report. It is wrong to assume that such kind of punishment is not justified by enlightened public opinion. For instance, there is provision for the whipping of children in the English Act of 1933.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. K. T. MICHAEL: May I know whether capital punishment does not still exist under the criminal law?

MR. N. RAMAKRISHNA PILLAI: Yes. Therefore when this punishment is allowed in an enlightened country like England at the present-day it is wrong to assume that no such punishment can be inflicted at all. There are only one or two occasions in which this sort of punishment is permitted to be inflicted under this Act and the only provision is what is contained in Section 34 of the Act. It says that this kind of punishment can be resorted to only in exceptional cases.

MR. A. P. UDAYABHANU: But it is in default of a fine.

MR. N. RAMAKRISHNA PILLAI: Yes. That is in circumstances when the child refuses to pay the fine and when he has the means to pay that fine. When a recalcitrant offender refuses to pay the fine imposed it is provided that this sort of punishment may be allowed.

MR. C. K. SANKARA PILLAI: Is the member aware that the cane that is used for adult offenders under the Penal Code is the one specified here?

MR. N. RAMAKRISHNA PILLAI: The size etc. of the cane is referred to in Section (24.)

DR. B. K. PILLAI (*Co-opted*): I also oppose the amendment. As a Doctor of Psychology and as one who has had some experience in the administration of children in the Reformatory school, I think that this punishment should be maintained. It has been suggested that the opinion of the modern psychologists is to abolish corporal punishment; in England, which is of course an enlightened country, even today birching is resorted to in the Reformatories, when other punishments are ineffective. Even in ordinary educational institutions caning is not rare.

The House rose at 6 P. M.

S. VAIYDANATHA AIYAR,
Secretary to the Sri Mulam Assembly.

LIBRARY ARCHIVES Kerala Legislative Assembly